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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,740	07/03/2001	Antonella Porta	CM2393	2412

27752 7590 09/16/2003

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,740

Applicant(s)

PORTA ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. This action is responsive to the amendment filed on June 30, 2003.
2. The objection to the abstract of the disclosure is withdrawn in view of applicants' amendment.
3. The objection to the disclosure is withdrawn in view of applicants' amendment.
4. The objection to claims 4, 5 and 6 is withdrawn in view of applicants' amendment and arguments therein.
5. The rejection of claims 6 and 7 under 35 U.S.C. 112, second paragraph is withdrawn in view of applicants' amendment.
6. The rejection of claims 1-6, 9-16 under 35 U.S.C. 102(b) as being anticipated by Edwards (US Patent No. 3,694,364) is withdrawn in view of applicants' amendment.
7. The rejection of claims 1-6, 10, 12-16 under 35 U.S.C. 102(b) as being anticipated by Kleinschmidt (US Patent No. 3,816,321) is withdrawn in view of applicants' amendment.

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8. Claims 1-3, 6, 8-9, 13-15 and newly added claim 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickenson et al. (US Patent No. 4,876,023), hereinafter "Dickenson" for the reasons set forth in the office action in paper number 5.

9. Claims 1-3, 6, 9-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (US Patent No. 5,698,476), hereinafter Johnson for the reasons set forth in the office action in paper number 5.

10. Claims 7-8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson as applied to the above claims, and further in view of Van Leeuwen et al. (US Patent No. 5,912,221), hereinafter "Van Leeuwen" for the reasons set forth in the office action in paper number 5.

Response to Applicants' Arguments

11. Applicants' arguments filed June 30, 2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Dickenson, Applicants argue that Dickenson does not teach or suggest expressly or inherently the sachet fiber composition as claimed by Applicants and that Dickenson teaches fibers made of rayon, cellulose, ester, polyester,

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bicomponent fibers having a polyester core and polyethylene sheath, wool, silk, wood pulp, jute hemp, cotton, linen, sisal and ramie (see col. 2, lines 39-46).

The Examiner respectfully disagrees with the above arguments because in Example 1, Dickenson teaches a twin compartment sachet made from a non-woven, air-laid, thermally-bonded substrate material which was formed of crimped polyester/polyethylene components (see col. 9, lines 51-57). The presence of polyester in the substrate is not excluded from the “comprising” language of the present claims. “Comprising” leaves the claim open for the inclusion of unspecified ingredients even in major amounts, see *Ex parte Davis et al.*, 80 USPQ 448 (PTO Bd. App. 1948). Also, the broad “comprising” and “containing” terminology do not exclude the presence of other ingredients in the composition, unlike the narrow “consisting of” language, see *Swain v. Crittendon*, 332 F 2d 820, 141 USPQ 811 (CCPA 1964). With respect to the newly added claim 17, Dickenson teaches at col. 9, line 41, the presence of zeolite in the composition.

With respect to the rejection based upon Johnson, Applicants argue that the instant application as amended requires that the sachet be comprised of fibers which do not exhibit an affinity for fugitive dyes and dirt. Applicants also argue that Johnson teaches a support matrix with an affinity for dyes such that fugitive dyes impart a color to the underlying support matrix, thus providing the two-fold benefit of preventing redeposition of extraneous dyes onto other wash items, while simultaneously providing an indicator system for the manifestation of such scavenging process, hence, teaches away from the instant invention.

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The Examiner respectfully disagrees with the above arguments because in col. 8, lines 32-38, Johnson teaches that synthetic polymeric materials such as polyester, polyethylene and polypropylene may be used as support matrices alone or in combination with other support matrices and that synthetic polymers are generally regarded as nonreactive towards the incorporation of dye absorbers. With regards to the support matrix which fulfills the dual function of delivery system and visual aid, please note that the present claims although requiring fibres which do not exhibit affinity for fugitive dyes, also require a carrier for the dye absorbing agent (see present claim 10) such that the carrier and dye absorbing agent provide a visual indication of the scavenging of any fugitive dyes (see present claim 12). Hence, the teachings of Johnson read on the present claims.

With respect to the rejection based upon Johnson in view of Van Leeuwen, Applicants argue that Johnson teaches a support matrix with an affinity for dyes such as fugitive dyes impart a color to the underlying support matrix and that Van Leeuwen teaches a substantially water insoluble dye transfer inhibition agent.

The response to Johnson above apply here as well. Hence, the combination of Johnson with Van Leewen is maintained.

12. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references are considered cumulative to or less material than those discussed above.

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13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Technology Center is:

(703) 872-9311 - for Official After Final faxes
(703) 872-9310- for all other Official faxes.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

September 10, 2003

Lorna M. Douyon
Lorna M. Douyon
Primary Examiner
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